

Amendment No. 1 to SB0624

Bell
Signature of Sponsor

AMEND Senate Bill No. 624

House Bill No. 673*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 24, Chapter 1, Part 2, is amended by adding the following as a new section:

(a) Except as provided in subsections (d) and (f) or unless a report of abuse is otherwise required by law, an advocate shall not disclose any of the following in a judicial, legislative, or administrative proceeding:

(1) A communication, including verbal, written, or otherwise stored information, received by the advocate from a victim;

(2) Records regarding the victim stored by the advocate in the course of business;

(3) Counseling the victim received;

(4) Crisis intervention services the victim received; or

(5) The location of the shelter that accommodated the victim.

(b) The victim may waive the privilege of the communication in subsection (a) only by express written consent. A victim's consent is not implied when the victim is a party to any judicial, legislative, or administrative proceeding. The privilege terminates upon the death of the victim.

(c) This section does not limit the defendant's right to cross-examine the advocate in a proceeding in which the advocate testifies with the written consent of the victim, or is otherwise compelled to testify by law or the court pursuant to subsection (d).

(d) An advocate shall not disclose a confidential communication received by the advocate from a victim except:

(1) To other advocates of the victim services provider and third-party providers, when and to the extent necessary to facilitate the delivery of services to the victim or as otherwise required by law;

(2) To a law enforcement agency to the extent necessary to:

(A) Protect the victim or another individual from a substantial risk of imminent and serious physical injury; or

(B) Disclose the location of a victim or permit the law enforcement agency to contact or interview the victim in furtherance of a criminal investigation;

(3) To make a report regarding child abuse or neglect as required by § 37-1-403, child sexual abuse as required by § 37-1-605, or abuse, neglect, or exploitation of an elderly or vulnerable adult as required by § 39-15-509;

(4) When the confidential communications are relevant to a claim or defense if the victim files a lawsuit against an advocate or a victim services provider; or

(5) Upon issuance of a court order compelling disclosure if, upon the motion of a party, the court determines that:

(A) The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act which is the subject of a criminal proceeding;

(B) The probative value of the information outweighs the harmful effect of disclosure, if any, on the victim, the advocate relationship, and the treatment services; and

(C) The information cannot be obtained by reasonable means from any other source.

(e) For purposes of this section:

(1) "Advocate" means an employee or volunteer of a domestic violence shelter, crisis line, or victim's services provider that provides services for victims of domestic violence, sexual assault, stalking, or human trafficking who has completed a minimum of twenty (20) hours of relevant training from a victim services provider;

(2) "Victim" means a person seeking assistance because the person is a domestic abuse victim as defined by § 36-3-601, a victim of an offense under title 39, chapter 13, part 5, a trafficked person as defined by § 39-13-314, or a victim of stalking as defined by § 39-17-315, regardless of where or how the person seeks or receives services; and

(3) "Victim services provider" means an entity or organization providing direct services to victims, but does not include law enforcement agencies, the department of children's services, the department of human services, the division of adult protective services, or the office of a district attorney general.

(f) Nothing in this section limits the access to records by the department of children's services when the department is investigating an allegation of child abuse or neglect.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.